

Office of the
CLARK COUNTY LAND USE HEARING EXAMINER

1300 Franklin Street
P.O. Box 9810
Vancouver WA 98668-9810
Phone (360) 397-2375
Form DS1333

NOTICE TO PARTIES OF RECORD

PROJECT NAME: RACHEL'S RANCH

**CASE NUMBERS: PLD2009-00051; SEP2009-00088; VAR2009-00014;
WET2009-00066; BLA2009-00035; EVR2009-00047**

The attached decision of the Land Use Hearing Examiner is final unless a motion is filed for reconsideration or an appeal is filed with Superior Court.

Motion for Reconsideration:

Any party of record to the proceeding before the hearings examiner may file with the responsible official a motion for reconsideration of an examiner's decision within fourteen (14) calendar days of written notice of the decision. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The motion must be accompanied by the applicable fee and identify the specific authority within the Code or other applicable laws, and/or specific evidence, in support of reconsideration. A motion may be granted for any one of the following causes that materially affects their rights of the moving party:

- a. Procedural irregularity or error, clarification, or scrivener's error, for which not fee will be charged;
- b. Newly discovered evidence, which the moving party could not with reasonable diligence have timely discovered and produced for consideration by the examiners;
- c. The decision is not supported by substantial evidence in the record; or,
- d. The decision is contrary to law.

Any party of record may file a written response to the motion if filed within fourteen (14) calendar days of filing a motion for reconsideration.

The examiner will issue a decision on the motion for reconsideration within twenty-eight (28) calendar days of filing of a motion for reconsideration.

Mailed on: **February 18, 2010**

RACHEL'S RANCH
PLD2009-00051; SEP2009-00088;
VAR2009-00014; WET2009-00066;
BLA2009-00035; EVR2009-00047
Hearing Date: 1/14/2010

Sturtevant, Golemo & Associates
Scott Taylor
2005 Broadway
Vancouver, WA 98660
staylor@sgaengineering.com

Mendoza, Sonia (ECY)
sepaunit@ecy.wa.gov
Department of Ecology
PO Box 47775
Olympia, WA
98504-7775

Daniel Wisner
ddwisner@comcast.net

Geoff Williams
lilmullins@comcast.net

Connie Schmidt
connieann@comcast.net

Whitlock Family
swhitloc@comcast.net

Chris & Kelly Noto
11107 NE 130th Ave
Vancouver, WA 98682

Planner: Jan Bazala

Greater Brush Prairie NA
Sam Kim, President
14915 NE 126th Avenue
Brush Prairie, WA 98606
E-mail: brushprairie@comcast.net

Susan Kool
srkoole@comcast.net

Jason Hoerauf
Jhoerau1@pps.k12.or.us

Marvin Harris
13005 NE 111 Street
Vancouver, WA 98682

Eric Golemo
egolemo@sgaengineering.com

Catherine Painter & Kelli Painter
ronandcass@msn.com

Mike Cozens
12721 NE 111th Street
Vancouver, WA 98682

Osprey Ventures LLC
Dan Wisner
4910 NW 127th St
Vancouver, WA 98685
ddwisner@comcast.net

Howard Foreman
10800 NW 13th Place
Vancouver, WA 98685

Jack Kool
Jack.kool@farweststeel.com

Adam Berry
berryadam@yahoo.com

Marilyn Golden
11108 NE 128th Ave
Vancouver, WA 98682

Molly Hoerauf
Molly1877@hotmail.com

Judy Beeg
12804 NE 112th Street
Vancouver, WA 98682

Project Name: Rachels Ranch
Project Number: PLD2009-00051
Planner: Jan Bazala
Hearing Date: 1/14/10

MR. DANIEL KEARNS
Reeve Kearns PC
dan@ReeveKearns.com
(Email)

MR. J. RICHARD FORESTER
forester@mediate.com
(Email)

MR JOE TURNER
jtpc@verizon.net
(Email)

THE COLUMBIAN
MICHAEL ANDERSEN
michael.andersen@columbian.com
(Email)

VANCOUVER SCHOOL DIST
ATTN: HEIDI ROSENBERG
PO BOX 8937
VANCOUVER WA 98668-8937

VANCOUVER/CLARK PARKS
INTEROFFICE MAIL

WA DEPT. OF TRANSPORTATION
ATTN: JEFF BARSNESS
BarsneJ@wsdot.wa.gov
(Email)

FT VANCOUVER REGIONAL LIBRARY
1007 EAST MILL PLAIN BLVD.
VANCOUVER WA 98663

CARLA SOWDER
HEALTH DEPARTMENT
INTEROFFICE MAIL
(Email)

JANET SEEKINS
ASSESSOR'S OFFICE
(Email)

STEVE SCHULTE
PUBLIC WORKS
(Email)

PLANNER:
(Email)

ROSIE HSIAO
(Email)

DAVID JARDIN
PUBLIC WORKS
(Email)

SUSAN RICE
(Email)

LINDA MOORHEAD
CODE ENFORCEMENT
(Email)

DEVELOPMENT ENG
(Email)

DESIREE DE MONYE
(Email)

**BEFORE THE LAND USE HEARINGS EXAMINER
OF CLARK COUNTY, WASHINGTON**

Regarding an application by Osprey Ventures, LLC)	<u>FINAL ORDER</u>
for approval of a preliminary plat to divide 7-acres)	
into 40 lots in the R1-5 zone at 13115 NE 114 th)	PLD2009-00051¹
Street in unincorporated Clark County, Washington)	(Rachel's Ranch Subdivision)

A. SUMMARY

1. The applicant requests approval to divide the roughly 7-acre site into 40 lots and an open space tract containing a Category IV wetland and associated buffers. The applicant proposed to construct the development in two phases.

a. The site is located at 13115 NE 114th Street; also known as known as tax lot 66 (Parcel #200122-000), Section 34, Township 3 North, Range 2 East, of the Willamette Meridian (the "site"). The site and the majority of the surrounding properties are zoned R1-5 (Low Density Residential, 5,000 square foot minimum lot size). The property abutting the southeast corner of the site is zoned MX (Mixed Use). The site is currently developed with a single-family home, a temporary hardship mobile home and several barns and outbuildings. The applicant proposes to remove all of the existing structures on the site and construct a new a single-family detached dwelling on each of the proposed lots. All proposed lots will comply with the minimum dimensional standards for the R1-5 zone, as modified by the density transfer ordinance.

b. Clark Public Utilities and Clark Regional Wastewater will supply domestic water and sanitary sewer service respectively to the site.

c. The applicant will extend NE 111th Street through the site from its existing terminus at the west boundary of the site, intersecting proposed NE 132nd Avenue at the east boundary of the site, terminating in a temporary turnaround near the northeast corner of the site. The applicant will dedicate right of way and construct half-width improvements for proposed NE 132nd Avenue along the entire length of the east boundary of the site. The applicant will construct a temporary turnaround at the southern end of NE 132nd Avenue. The eastern half of NE 132nd Avenue will be constructed and NE 111th/112th Street will be further extended in the future when the abutting property to the east redevelops. NE 132nd Avenue is planned for further extension to the north and south as an urban minor arterial as surrounding properties to the north and south redevelop. This street will eventually intersect the existing segment of NE 132nd Avenue at 114th Street to the north and NE 99th Street to the south. The applicant will construct a private road to the west of proposed NE 112th Street, Private Road A, to serve Lots 8 through 15 in the northwest corner of the site. The applicant will construct a second private road to the west of proposed NE 132nd Avenue, Private Road B, to serve Lots 32 through 40 in the southwest corner of the site.

¹ This decision also addresses SEP2009-00088, VAR2009-00014, WET2009-00066, BLA2009-00035 and EVR2009-00047

d. The applicant will collect stormwater runoff from the impervious areas of the site and convey it to stormwater facilities within the site. The applicant will infiltrate runoff from impervious areas in Phase 1. Runoff from Phase 2 will be detained and released into the on-site wetlands at less than predevelopment rates in order to maintain the hydrology of the onsite wetlands.

2. The County issued a Determination of Nonsignificance ("DNS") for the subdivision pursuant to the State Environmental Policy Act ("SEPA"). Clark County Hearing Examiner Joe Turner (the "examiner") conducted a public hearing about the application. County staff initially recommended that the examiner deny the application. See the Development and Environmental Review Staff Report and Recommendation to the Hearings Examiner dated January 14, 2010 (the "Staff Report"). However, after the applicant submitted an agreement signed by the owner of the adjacent property to the east, allowing construction of offsite road improvements (Exhibit 28), County staff recommended that the examiner approve the application subject to conditions. The applicant accepted the findings and conditions in the Staff Report, as modified at the hearing, without exceptions. Seven persons testified orally in opposition to the application. Other persons testified in writing. Disputed issues or concerns in the case include the following:

- a. Whether the County provided adequate public notice of the hearing;
- b. Whether the applicant is required to extend 111th Street through the site;
- c. Whether the applicant can be required to extend a road to 114th Street, through the flag pole portion of the site;
- d. Whether additional traffic generated by the proposed development will exceed the capacity of area streets or create a hazard;
- e. Whether the applicant is required to construct or repair off-site streets, sidewalks and other improvements;
- f. Whether the proposed development will cause or exacerbate flooding on adjacent properties; and
- g. The compatibility of the proposal with the surrounding area generally.

3. Based on the findings provided or incorporated herein, the examiner approves the preliminary plat subject to the conditions at the end of this final order.

B. HEARING AND RECORD HIGHLIGHTS

1. The examiner received testimony at a public hearing about this application on January 14, 2010. That testimony and evidence, including a videotape of the public hearing and the casefile maintained by the Department of Community Development

Hearings Examiner Final Order

PLD2009-00051, SEP2009-00088, VAR2009-00014, WET2009-00066, BLA2009-00035 and EVR2009-00047

(Rachel's Ranch Subdivision)

Page 2

("DCD"), are included herein as exhibits, and they are filed at DCD. The following is a summary by the examiner of selected testimony and evidence offered at the hearing.

2. County planner Jan Bazala summarized the Staff Report and staff memoranda (Exhibits 25 and 26) and showed photographs of the site (Exhibit 27).

a. He noted that the applicant submitted an agreement signed by the owner of the abutting property east of the site allowing the applicant to construct portions of NE 132nd Avenue and the temporary turnarounds on the adjacent property. Exhibit 28. The agreement resolved the only outstanding issue in the Staff Report. Therefore he recommended the examiner approve the application subject to the findings and conditions of approval in the Staff Report, as modified by Exhibits 25 and 26. He requested the examiner add a condition of approval requiring that the applicant record a final agreement for the offsite road improvements prior to final plat approval.

b. He noted that an adjacent resident expressed concerns that development on this site will exacerbate ponding and flooding problems on properties west of the site. Exhibit 10. The applicant's engineer testified that runoff from this development will not make the existing problems any worse. The applicant will infiltrate and detain runoff from the site to replicate the existing conditions.

3. County wetland biologist Brent Davis testified that the fence discussed in Wetland Finding 7 should extend along the north boundary of the proposed private driveway serving Lots 34, 35 and 36.

4. County engineer David Bottamini noted that the applicant proposed two private roads; Private Road A serving lots in the northwest corner of the site and Private Road B serving lots in the southwest corner of the site. He requested the examiner modify Transportation Finding 3 to include both private roads.

5. Engineer Eric Golemo testified on behalf of the applicant and accepted the findings and conditions in the Staff Report, as amended. He offered the following responses to the issues raised by neighboring residents:

a. He noted that the site and surrounding properties are zoned R1-5. The County Code requires that the applicant develop the site with a certain number of lots to comply with the minimum density requirements of the zone.

b. The applicant must extend NE 111th Street into the site to provide access to the site and to comply with the County's cross-circulation requirements. The proposed development will generate additional traffic on the streets west of the site. However the volume of traffic generated by the proposed development will not exceed the capacity of those streets, based on the applicant's traffic analysis. If necessary, area residents can petition the County to install traffic calming measures on those streets. When the adjacent property redevelops, the owner will extend NE 132nd Avenue north to NE 114th Street, providing additional access to the site and surrounding areas.

c. The Code does not allow stop signs at most local street intersections, unless certain engineering “warrants” are met. The intersection of 111th Street and 130th Avenue will continue to operate as an uncontrolled intersection.

d. The applicant will install streetlights within the proposed development, in cooperation with Clark Public Utilities “CPU”). The residents of the site will pay a monthly fee to fund operation of the lights. The residents of the Mountain View neighborhood can petition CPU to install streetlights in their neighborhood too.

e. The wetland on the site is severely degraded and provides minimal wetland functions. It has been a horse pasture for many years. The applicant will enhance the wetland, removing non-native invasive vegetation and planting additional native shrubs and trees, which will enhance the wetlands wildlife value and water quality functions.

f. Flooding has always been a problem in this area, even before the Mt. View neighborhood was developed. The original plat for the Mt. View subdivision indicates areas of flooding on lots south of 111th Street and a note on the Mt. View plat states “any improvements in easement area will be at owner’s risk.” The “easement area” referenced in the plat note roughly coincides with the areas of existing flooding. Exhibit 13. The applicant will conduct additional analysis of the stormwater facilities on this site and the downstream conveyance system to ensure that the proposed development does not make the flooding problems any worse. The applicant must discharge some stormwater runoff into the on site wetlands in order to maintain wetland hydrology.

g. Neighboring residents misunderstood the denial recommendation in the Staff Report. Staff concluded that the proposed development was feasible and complied with all applicable approval criteria, with one exception. The applicant proposed to construct portions of the temporary turnarounds on the adjacent property east of the site. However the applicant had not provided evidence that the owner of the adjacent property would grant easements necessary to accommodate the proposed offsite improvements. Therefore staff recommended denial of the application solely on that basis. The applicant subsequently submitted a signed agreement in which the owner of the adjacent property agreed to grant the required easements. Therefore staff changed their recommendation to approval.

h. The applicant must extend NE 111th Street into the site. The applicant likely cannot extend a public street through the flag stem portion of the site, because it would not meet minimum intersection spacing requirements from the future minor arterial (132nd Avenue) intersection.

i. He objected to the neighbor’s request to hold the record open. The neighbors had adequate opportunity to review the application prior to the hearing. The County requires multiple forms of notice, mailed, posted on the site and published in the newspaper, to ensure that all interested parties are aware of the application. Holding the record open will impose additional costs and delay on the applicant.

6. Area resident Jody Noto expressed concerns with the potential impacts of the development on the existing Mountain View neighborhood west of the site. The Mountain View neighborhood was developed with one-acre lots in 1979. The high-density development proposed on the site may impact the value of the abutting properties. The residents of the Mountain View neighborhood do not want traffic from this development traveling through their neighborhood. NE 111th Street provides the only access to the site. There is no stop sign at the intersection of 130th Avenue and 111th Street. There is no traffic signal at the intersection of 132nd Avenue and 119th Street. Additional traffic from the proposed development will create a hazard. He testified that he did not receive notice of the hearing. He objected to Staff's changing their recommendation from denial to approval.

7. Kelly Noto testified that only one person in the Mountain View neighborhood "thinks" he received notice of the hearing. She expressed concerns that additional traffic from the proposed development will damage the existing roads in the Mountain View neighborhood. The proposed development will generate additional teen-age drivers, creating a hazard for children living in the area.

8. Steve Whitlock testified that he did not receive notice of the hearing. He argued that the existing Mountain View neighborhood is a rural area. NE 111th Street is a dead-end street with minimal traffic. There are no streetlights within the Mountain View neighborhood. Additional traffic on the neighborhood streets will create a hazard for children living in the neighborhood.

9. Jason Hoerauf testified that the existing roads within the Mountain View neighborhood are not striped or lighted. Additional traffic from the proposed development will create a hazard.

10. Jack Kool testified that the County installed a barricade on a section of 111th Street east of the site in order to reduce traffic through the surrounding neighborhoods. He requested the County require a similar barrier in this case to prevent traffic from the site from impacting the Mountain View neighborhood. He testified that the pavement on the existing roads in the Mountain View neighborhood is old and damaged. The roads cannot accommodate additional wear and tear from heavy construction equipment and increased traffic. He testified that he first learned of the proposed development when he saw signs posted on the site.

11. Marvin and Claire Harris expressed concerns that development on this site will increase the volume of runoff flowing through the wetlands south of 111th Street, exacerbating existing flooding problems in the area.

12. Mike Cozens submitted photographs illustrating existing flooding problems in the wetlands south of 111th Avenue, west of the site. Most of the lots south of 111th Avenue are underwater during the winter months.

13. At the end of the hearing the examiner held the record open for 11 days, until Monday January 25, to allow the public an additional opportunity to submit written

testimony and evidence. The examiner held the record open for an additional week for the applicant to respond to the public's testimony and to submit a final argument. The record in this case closed at 5:00 p.m. February 1, 2010. No additional testimony or evidence was submitted during the open record period.

C. FINDINGS:

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The following issues relate to the mandatory applicable approval criteria for this proposal and were addressed by County staff in their reports, by agency comments, by the applicant and others. The Examiner adopts the following findings with regard to each:

PUBLIC NOTICE:

Public Notice Finding 1 - Notice

The examiner finds that the public had an adequate opportunity to review and respond to the proposed development, consistent with the limitations of the Code. CCC 40.510.030.E requires the County to mail notice of public hearings to owners of property within 300 feet of the site, publish notice in the newspaper and post notice on the site at least fifteen calendar days before a hearing. The County did these things in this case.

Notice was mailed to property owners within 300 feet on November 10, 2009. See exhibit 8. Notice was published in the COLUMBIAN newspaper on December 23, 2009. See Exhibit 30. Signs were posted at three locations on and near the site on December 30, 2009 as required by CCC 40.50.030E(3)(C). See Exhibit 23. In addition, the applicant posted a sign on the site consistent with CCC 40.50.030E(3)(d) on December 14, 2009. See Exhibit 31. This is sufficient to comply with the Code. The Code does not require that mailed notice be received by the owners; such a requirement would be impossible to enforce. Multiple forms of notice are required, in part, to provide a measure of overlap, so that if notice in one form is not effective (e.g., when a mailed notice is not received), another form of notice will be effective (e.g., published or posted on the site).

The examiner finds that the public had an adequate opportunity to review and respond to the proposed development, consistent with the limitations of the Code. The neighborhood was well represented at the hearing and in the written record. Residents of the neighborhood testified clearly and succinctly regarding issues of concern to them.

The examiner granted the neighbor's request to hold the record open to allow the public to review the technical reports included with the application and to submit additional written testimony. CCC 40.510.030.D(4)(a)(3) authorizes, but does not require, the examiner to hold the record open or continue the hearing at the request of any party. However 40.510.030.F, which requires that the examiner issue a written decision within

Hearings Examiner Final Order

*PLD2009-00051, SEP2009-00088, VAR2009-00014, WET2009-00066, BLA2009-00035 and EVR2009-00047
(Rachel's Ranch Subdivision)*

Page 6

92 days after the date an application is determined fully complete, limits the examiner's ability to grant such a request. Given the time constraints imposed by the Code, the examiner concluded that eleven calendar days provided an adequate opportunity for the public to review the record and submit additional testimony and evidence. The public is entitled to an opportunity to review and respond to proposed development. However the public's rights must be balanced against the applicant's right to, and the Code's requirement for, a timely decision.

Public Notice Finding 2 – Staff Recommendation

The examiner finds that the staff's initial recommendation of denial in the Staff Report did not impact the public's ability to participate in review of this application. The public had no basis to rely on staff's recommendation of denial. The Staff Report is expressly a recommendation to the examiner. The Staff Report is titled "Development and Environmental Review Staff Report and Recommendation." (Emphasis added). The examiner is required to make the final decision approving or denying the application. See CCC 40.510.030.D(5).

Staff initially recommended denial of the application based solely on the applicant's failure to provide proof of offsite easements needed to support the proposed development. See the "Recommendation" on p 1 of the Staff Report and Transportation Finding 8. The Staff Report clearly states that staff will recommend approval of the application if the applicant provides evidence of a legal agreement for the offsite easements. See Transportation Finding 8. The applicant provided the required documentation prior to the hearing. Exhibit 28. Therefore staff recommended the examiner approve the application subject to the affirmative findings in the Staff Report.

LAND USE:

Land Use Finding 1 - Development Standards

Because the site has a significant proportion of wetland areas, the applicant proposed to utilize the density transfer provisions of Section 40.220.010. CCC 40.220.010.C(5)(b)(2) specifies that "the maximum number of units that can be achieved on the site is based on the density in Table 40.220.010-4, multiplied by the gross acreage of the entire site, both encumbered and unencumbered, without deducting for road easements or right-of-way. The potential maximum number of lots will be dependent upon site characteristics and the lot requirements of Table 40.220.010-4."

Multiplying 7.12 (acres) X 6.9 (Maximum density for the R1-5 zone in Table 40.220.010-4) equals a maximum number of 49 lots.

The proposal is for 40 lots, less than the maximum allowed.

The minimum lot depth of any lot abutting environmentally sensitive lands shall be fifty-five (55 feet).

All such lots meet the minimum depth requirement.

The subject property is larger than 2.5 acres. Per CCC 40.220.010.C(5)(b)(4), resulting lots abutting adjacent single-family zoned properties must be at least 4,500 square feet (90% of 5,000). In addition, these parcels shall have a minimum lot depth of 60 feet and a minimum lot width of 35 feet.

Interior lots shall meet the following:

Average lot width—35 feet

Average lot depth—50 feet

Minimum usable lot area—2,250 square feet

All of the proposed lots meet the above requirements; however, fence encroachments on Lots 15, 16, and 17 will need to be resolved to the applicant's benefit for those lots to meet minimum lot area. If the encroachments are not resolved to the benefit of the applicant, it appears that some minor shifting of the street system and nearby lots with the final plat could still allow these lots to meet the above standards.

In addition, Lots 1 and 11, located within the flagpole of the site, will not meet the required 35-foot width without a successful boundary line adjustment. If a successful BLA is not accomplished, Lots 1 and 11 will likely become part of Lot 12.

If a significant change is proposed to adjust some or all of these lots, a post decision review may be necessary. (See Condition D-1)

The applicable setbacks for each lot in the R1-5 zone, in accordance with Table 40.220.010-3, are as follows:

- Front – 20 feet
- Side – 5 feet
- Rear – 5 feet

The preliminary plat shows building setbacks that meet these requirements.

Land Use Finding 2 – Phasing

Under 40.540.040.D(4), each phase of a subdivision must meet code requirements independently.

Phase I includes 31 of the 40 lots, and anticipates the construction of a temporary cul-de-sac at the end of NE 112th Street. Phase II will require an extension of NE 132nd Avenue from the 112th Street temporary turnaround to access the 9 remaining lots. To ensure that the extension of NE 132nd Avenue does occur as a result of this development, the construction of 132nd Avenue will be required prior to final plat for Phase I; it's possible that the county could accept a bond in lieu of construction. ***(See Transportation Finding 3 and Condition A-4.a)***

Stormwater facilities and wetland mitigations must be included in Phase I. This ensures that the impacts to the wetland are mitigated.

Land Use Finding 3 – Landscaping

Per Table 40.320.010-1, since properties zoned single-family residential surround the site, perimeter landscaping is not required; however, street trees are required for the proposed arterial, NE 132nd Avenue. *(See Conditions A-11 and D-3)*

Land Use Finding 4 – Removal of existing structures

There are two residences and several outbuildings on the site that the applicant proposed to remove. The applicant will be required to obtain a demolition permit and comply with Southwest Clean Air Agency (SWCAA) requirements. *(See Condition B-1.c)*

Land Use Finding 5 – SEPA checklist

Within the SEPA checklist, references to a threatened Burning Bush plant and habitat conservation plan are typos. No such plants or habitat areas exist on the site.

Land Use Finding 6 – School transportation

The site is over one mile from the closest school. The application includes a letter from the Battle Ground School district that students will be bused to schools.

Land Use Finding 7 – Density

Concerns were expressed about the density of development proposed. The examiner understands residents' displeasure with the growth around them, but this growth was foreseeable and is in the broader public's interest. The site and surrounding area are zoned R1-5. As large lots are sold, they will presumably be developed to the maximum extent allowed. The examiner finds that objections to the proposed lot sizes and density are not relevant, because the density and dimensions of proposed lots comply with the comprehensive plan map designation and zoning of the property.

The Code does not authorize the County to require larger lots so that they are consistent with the size of surrounding lots. In fact such a requirement is prohibited by the Growth Management Act (RCW 36.70B.030) as amended by the 1995 Legislature, which prohibits review of the allowed density at this stage.

Even if the applicant wanted to, the site could not be developed with substantially larger lots under the current zoning. The Code imposes minimum density and maximum lot sizes to maximize the density in the urban growth boundary, consistent with the comprehensive plan and zoning maps, to make the most efficient use of urban services.

Although the proposed lots are smaller than adjacent lots, the uses are not incompatible. The applicant is proposing to provide single-family detached residences adjacent to existing single-family development. Even if the subdivision will have an adverse impact on property value --- and there is no substantial evidence to that effect in the record --- protection of property value and consistency with adjoining development are not relevant to the applicable State or County standards. The examiner must base the decision on the laws of Clark County and Washington State.

Conclusion (Land Use):

Hearings Examiner Final Order

*PLD2009-00051, SEP2009-00088, VAR2009-00014, WET2009-00066, BLA2009-00035 and EVR2009-00047
(Rachel's Ranch Subdivision)*

The examiner concludes that the proposed preliminary plan, subject to conditions identified above, meets the land use requirements of the Clark County Code.

ARCHAEOLOGY:

The applicant has submitted an archaeological pre-determination to the State Department of Archaeology and Historic Preservation (DAHP) prior to submittal of the application. The DAHP concurs with the recommendation of the pre-determination that no additional studies are necessary; however, a note on the final construction plans and plat will require that if resources are discovered during ground disturbance, work shall stop and DAHP and the county will be contacted. (*See Conditions A-3.a and D-9.b*)

Conclusion (Archaeology):

The examiner finds that the proposed preliminary plan, subject to conditions identified above, meets the archaeology requirements of the Clark County Code.

WETLANDS:

Wetland Finding 1 - Determination

The site contains Category IV wetlands. The wetlands and wetland buffers were determined under a previously issued wetland determination (WET2009-00066, Exhibit 18). Wetland A (Figure 7, Tab 24, Exhibit 6) has a reduced buffer of 30 feet based on CCC 40.450.030.E(4)(c). The Existing Conditions Plan (Exhibit 5) only shows the wetland boundaries. The preliminary wetland mitigation plan (Figure 8, Tab 24, Exhibit 6) shows the correct wetland and buffer boundaries for Wetland A, but the required buffers for Wetlands A2 and A3 are 50 feet. The Final Mitigation Plan and Engineering Construction Plans must be revised to show the correct wetland buffer boundaries. (*See Conditions A-1 and A-2*)

Wetland Finding 2 - Mitigation ratio

The applicant proposes to fill 4,253 square feet of Wetlands A and A2 for the construction of a half-width street (NE 132nd Avenue) and Lots 30 and 31. Mitigation for this fill is proposed as combined creation (4,783 square feet) and enhancement (7,507 square feet). The proposed mitigation exceeds the required ratios in Table 40.450.040-1, leaving 1121 square feet of enhancement available to mitigate for other impacts

Wetland Finding 3 - Buffer correction

The buffers required for the proposed wetland creation areas are 50 feet in accordance with CCC 40.450.040.D(6). The applicant has assumed that the 30-foot buffers for Wetland A apply, therefore the calculations in the mitigation plan (Tab 24, Exhibit 6) for buffer impacts and buffer mitigation areas are incorrect. Staff has prepared Exhibit 19 to illustrate the impact the correct buffers have on the mitigation plan.

Wetland Finding 4 – Replacement area insufficient for 40.450.040.C(3)

The applicant proposes to average wetland buffers to avoid indirect impact adjacent to the proposed fill. Staff has concluded that the proposed reduction areas are significantly larger (Exhibit 19) and the replacement area is insufficient to comply with 40.450.040.C(3).

Hearings Examiner Final Order

*PLD2009-00051, SEP2009-00088, VAR2009-00014, WET2009-00066, BLA2009-00035 and EVR2009-00047
(Rachel's Ranch Subdivision)*

Wetland Finding 5 - Replacement area insufficient for 40.450.040.C(5)

The applicant proposes to use buffer replacement to offset buffer loss from the construction of NE 132nd Avenue. Because of the requirement for 50-foot buffers on the wetland creation areas, there is insufficient buffer replacement area to comply with CCC 40.450.040.C(5).

Wetland Finding 6 - Feasible alternative

Staff prepared Exhibit 19 to analyze the feasibility of revising the mitigation plan to comply with CCC 40.450. Staff determined, based on Exhibit 19, that the standards of the ordinance can be met with the following modifications to the proposed plat and mitigation plan:

- A) Extend the enhancement to the proposed wetland creation area (this is shown in the enhancement area calculated in Exhibit 19). This increases the enhancement area to approximately 11,780 square feet
- B) Construct retaining walls adjacent to Lots 30 and 31 and on the west side of NE 132nd Avenue and enhance the remaining wetland. This will replace 2,273 square feet of wetland fill with 2,720 square feet of indirect wetland impact and increase the total wetland enhancement area to approximately 14,500 square feet. Any proposed retaining wall at the buffer boundary will need to be constructed prior to Final Plat approval.
- C) Propose a reduction of land use intensity to reduce the required buffers on Wetlands A3 and A2 and the created wetlands to 40 feet. The following conditions must be met to comply with CCC 40.450.040.C(1):
 - (1) Buffer Enhancement. The buffers must be enhanced for water quality function by establishing dense coverage of native shrubs.
 - (2) Shielding High Intensity Uses. Rear yard lighting on Lots 25-33 and side yard lighting on lots 33 and 34 must be directed down or away from the wetland and a fence must be provided at the buffer boundary on each of these lots and on the north edge of Private Road B to minimize access to the wetland by pets and residents of the development.
 - (3) Surface Water Management. As much of the discharge of roof drains and yard drainage from Lots 25 through 34 as possible must be directed to the wetland buffer in order to disperse the flow of run-off from the development to the wetland.

The conservation covenant required under 40.450.030.F(3) will need to include restrictions on rear yard lighting and maintenance of fencing and roof drainage on the specified lots. These restrictions must also be included in any CC&Rs adopted for this development. ***(See Conditions D-8 and D-9.c)***

- D) Adjustment of the lot boundaries to provide approximately 680 square feet of additional buffer area for buffer averaging and buffer replacement.

With these modifications, the standards of CCC 40.450.040.C and D can be met. Additionally, since the proposed impacts are below the County's threshold for requiring public notice or SEPA review, the applicant may propose any mitigation alternatives (e.g. reduction in the number of lots or off-site mitigation) that meet these standards in the Final Wetland Mitigation Plan. Prior to Engineering Construction Plan approval, the applicant must have an approved Final Wetland Permit. Note that significant changes in the Plat to meet this condition may require Post Decision Review. *(See Conditions A-1 and A-2*

Wetland Finding 7 - Stormwater facilities in wetland buffer

The applicant proposes to construct stormwater facilities within the wetland buffer. All stormwater facilities located in wetland buffers must comply with CCC 40.450.040.C(4). Design details demonstrating that these standards have been met must be included in the Final Mitigation Plan and shown on the Engineering Construction Plans. *(See Condition A-1.b)*

Conclusion (Wetlands):

Based upon the development site characteristics and the proposed development plan, the examiner concludes that the proposed preliminary plat and preliminary wetland permit can comply with the requirements of the Wetland Protection Ordinance PROVIDED that certain conditions are met. Therefore, the requirements of the preliminary plan review criteria are satisfied. The applicant will be required to ensure such compliance by modifying the development as discussed above prior to final plat approval.

TRANSPORTATION:

Transportation Finding 1 – Pedestrian/bicycle circulation plan

Pedestrian circulation facilities in compliance with the Americans with Disabilities Act are required in accordance with the provisions of Section CCC 40.350.010. The proposal meets the pedestrian circulation code.

Transportation Finding 2 – Road cross-circulation

The applicant has provided a cross-circulation plan. The proposed plan provides sufficient circulation in all directions. The applicant has proposed an intersection of NE 112th Street with NE 132nd Avenue that lines up with an intersection that is a part of proposed Parker Property Subdivision (PAC2009-00083, applicant - Columbia Rim Corporation) associated with parcel numbers 200329-000 and 200369-000 to the east. Therefore, the examiner finds that the project complies with the circulation plan requirements, section CCC 40.350.030.B(2).

The applicant must extend NE 111th Street into the site in order to comply with the street extension and connectivity standards of CCC 40.350.030.B(9) and CCC 40.350.030.B(2). The extension of this street was foreseeable. The very nature of the existing design of NE 111th Street --- as a public right of way stubbed to the boundary of the site without turnarounds --- evidenced an intention that the street would be extended. CCC 40.350.030.B(9) requires that the applicant extend this street through the site. For people

who have lived along what has heretofore been a dead-end street, the change created by the extension of this street will be more significant. They have enjoyed a relatively low level of traffic given their location in an otherwise urbanized area. But it is time to extend the streets to accommodate development on this site and fulfill the County's connectivity and cross circulation goals. This development will extend streets to the boundaries of the site. These stub streets will be further extended as adjacent properties redevelop, providing additional access opportunities for all area residents and allowing traffic to disperse onto multiple streets, reducing traffic volumes and congestion on individual streets in the area and enhancing emergency access.

The applicant is not required to extend a public street through the flagpole portion of the site to intersect NE 114th Street. Such a street is not necessary to comply with the cross-circulation standards of CCC 40.350.030.B(2). Existing NE 132th Avenue, NE 111th Street and the proposed extension of 111th Street will serve less than 100 lots. Therefore the applicant is not required to provide a second access to this site to comply with CCC 40.350.030.B(4)(b)(4).

Transportation Finding 3 – Roads

NE 132nd Avenue is an "Urban Minor Arterial," M-2cb. It is anticipated that the proposed Rachel's Ranch Subdivision and the future Parker Property Subdivision to the east (on parcels #200329-000 and 200369-000) will each construct half of the roadway.

The applicant has proposed the required half-width improvements, including 40 feet of right-of-way, 23 feet of paved street width, curb, gutter, and sidewalk. The applicable Standard Detail Drawing #10 includes a requirement for the detached sidewalk to be at least 4 feet from the curb.

Originally, the applicant proposed to construct NE 132nd Avenue as part of Phase II. Under that scenario, the developer of Phase II would be faced with constructing a lengthy roadway to serve a relatively small number of lots; as a result, staff required that NE 132nd Avenue should be constructed prior to the Phase I final plat. The applicant requested to bond the required frontage improvements with Phase I instead of having to construct the improvements prior to Phase I final plat approval (See Exhibit 17). Staff believes this may be acceptable, provided that the applicant is able to justify approval of bonded improvements through a road modification application prior to final engineering plan approval. The applicant requests that the road modification application be reviewed without an associated post decision review. Staff supports the applicant's request, provided no substantial changes to the current transportation plan are proposed. *(See Condition A-4.b)*

Parking is prohibited along partial-width roadways with the signs and pavement markings being the responsibility of the applicant. *(See Condition A-4.a)*

The project proposes temporary turnarounds at the eastern end of NE 112th Street (to be completed with Phase I) and at the southern end of NE 132nd Avenue (to be completed with Phase II). Both turnarounds, as well as the southern portion of the required half width of NE 132nd Avenue between the two turnarounds, are located on Parcel #200329-

Hearings Examiner Final Order

PLD2009-00051, SEP2009-00088, VAR2009-00014, WET2009-00066, BLA2009-00035 and EVR2009-00047

(Rachel's Ranch Subdivision)

000 to the east, the site of the proposed Parker Property Subdivision. The applicant does not own this parcel. However the owner of Parcel #200329-000, the Rosemary Parker Trust, agreed to provide the required easements and right of way, See Exhibit 28 and Transportation Finding 8.

A small portion of frontage exists on NE 114th Street to the north. NE 114th Street is an "Urban Neighborhood Circulator." The applicant has proposed half-width improvements including 30 feet of right-of-way, 18 feet of paved width, a detached 5-foot sidewalk, curb, and gutter which meets the minimum frontage improvement requirements and exceeds the right-of-way dedication. Proposed Lot 1 will take access from NE 114th Street.

The proposed on-site roadway, an extension of NE 111th Street from the west, is an "Urban Local Residential" access roadway. The applicant has proposed improvements that meet the minimum requirements of 46 feet of right-of-way, 28 feet of paved width, curbs, gutters, and sidewalks. Private Road A will serve proposed Lots 8 through 15. A joint driveway onto Private Road A will provide access to Lots 10, 11 and 12. Private Road B will serve proposed Lots 32 through 40. A joint driveway onto Private Road B will provide access to Lots 34, 35 and 36.

The applicant has proposed a temporary turnaround at the southern end of proposed NE 132nd Avenue. CCC 40.350.030.B(9)(b)(2) requires that removal of a temporary turnaround and extension of sidewalk shall be the responsibility of the developer who extends the road. The party responsible for removal of the temporary turnaround shall be identified on the face of the plat. *(See Condition D-9.i)*

The applicant is not required to construct or repair offsite streets, sidewalks and other improvements, because it would be disproportionate to the impact of the subdivision on the need for such facilities. Applicants are not required to remedy all perceived and existing deficiencies in the vicinity of a development. The County Code requires an applicant to mitigate impacts a development causes or to which it contributes significantly. Although the proposed development contributes to problems with substandard streets in the area, those problems exist largely because of existing development. It would be inequitable to require an applicant to bear the full burden of improvements where the proposed development is only responsible for a small portion of the problem. The need for sidewalks is one that exists generally along streets in the area, and is a need to which all adjoining properties contribute, not just the lots being created in this case. The applicant will provide sidewalks on both sides of all streets within the subdivision and along the portion of 132nd Avenue abutting the site. Sidewalks in the area will interconnect over time as other properties in the area develop, but the applicant is not required to make such connections at this time. In addition, the proposed development will generate traffic impact fees that the County can use to construct road improvements in the area.

Construction on this site will temporarily cause increased noise, dust, traffic and other impacts on adjacent properties. However the Code does not contain standards regulating construction activities. This is only one of the many consequences of living in an urban

area. The applicant is required to obtain County approval of a construction Traffic Control Plan ("TCP") prior to issuance of building or grading permits, which will govern all work within or impacting the public transportation system. Condition A-6.b. The County will review construction vehicle access to the site and other issues. The examiner finds that, while construction on the site may cause some adverse impacts on surrounding properties, such impacts are short lived and not significant enough to require specific limitations on construction other than those imposed by State law and the County Code.

Transportation Finding 4 - Access

Per CCC 40.350.030 (B)(4)(b)(1)(b), corner lot driveways shall have a minimum separation of 50 feet from the intersecting property lines or where this is impractical, the driveway may be located 5 feet from the property line away from the intersection or as a joint use driveway at this property line. *(See Condition A-4.c)*

Direct driveways access onto NE 132nd Avenue, an arterial road, will not be permitted. *(See Condition D-9.f)*

Transportation Finding 5 – Sight distance

The approval criteria for sight distances are found in CCC 40.350.030.B(8). This section establishes minimum sight distances at intersections and driveways. Additional building setbacks may be required for corner lots in order to maintain adequate sight distance. The final engineering plans shall show sight distance triangles for all corner lots. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance requirements at all proposed driveway approaches and intersections.

The applicant has submitted a sight distance analysis letter dated October 8, 2009. Sight distance shall be complied with including at the intersection of NE 114th Street and NE 130th Avenue as all trips are proposed to take access to the intersection. *(See Condition A-4.d)*

Transportation Finding 6 - Phasing

The applicant is responsible for providing all necessary transportation improvements required for each individual phase including temporary turnarounds. The design of the required transportation improvements for each proposed phase will be reviewed during final engineering review. *(See Condition A-4.e)*

Transportation Finding 7- Road Modification

The applicant had requested a modification to use a shed section for the proposed private road. A road modification is no longer needed since a shed section is now allowed outright per the updated Standard Detail Drawing #17A.

Transportation Finding 8 – Proof of the applicant’s ability to obtain permission for offsite improvements

The examiner finds that the applicant has the ability to construct the proposed offsite improvements (the southern portion of NE 132nd Avenue and the turnarounds at the ends of NE 112th Street and NE 132nd Avenue). The applicant submitted a signed agreement between the Rosemary Parker Trust and Osprey Homes (*Exhibit 28*) in which the

Hearings Examiner Final Order

PLD2009-00051, SEP2009-00088, VAR2009-00014, WET2009-00066, BLA2009-00035 and EVR2009-00047

(Rachel’s Ranch Subdivision)

Rosemary Parker Trust agrees to dedicate right of way and grant easements necessary to accommodate the proposed offsite road improvements. The Rosemary Parker Trust is the owner of the adjacent property east of the site, Parcel #200329-000. Therefore the examiner finds that the applicant has provided evidence of a concrete agreement from the owner of #200329-000 to allow the offsite improvements and the project is feasible at this time. The applicant should be required to record a copy of the signed agreement prior to final construction plan approval. *(See Condition A-4.f)*

Conclusion (Transportation):

The examiner concludes that the proposed preliminary plan can meet the transportation requirements of the Clark County Code.

TRANSPORTATION CONCURRENCY:

Transportation Concurrency Finding 1 - Trip generation

The applicant has submitted a traffic study under the provisions of Clark County Code section 40.350.020 (D)(1). The applicant's traffic study indicates that the proposed Rachel's Ranch Subdivision will consist of 40 new detached single-family homes. The applicant's traffic study has also estimated the weekday a.m. peak-hour trip generation at 29 new trips, while the p.m. peak-hour trip generation is estimated at 39 new trips using nationally accepted data published by the Institute of Transportation Engineers.

This development will increase the volume of traffic on streets in the area. That increased traffic will be perceptible to area residents. However County engineering staff determined that it will not exceed the capacity of streets nor create a hazard. There is no substantial evidence to the contrary. Neighbor's unsupported concerns about increased traffic are not substantial evidence sufficient to overcome the expert testimony of the traffic engineers for the County and the applicant.

Higher traffic volume creates a roughly proportionally higher risk for drivers, pedestrians and bicyclists. In response reasonably prudent people exercise more care personally and with family members. The examiner concludes that the increased risk that results from traffic generated by the proposed development does not pose a hazard to public health and safety, because of the small absolute and relative impacts of the subdivision. Those risks are consistent with the location of the site in an area where county plans call for the sort of development being proposed.

There is no dispute that the offsite streets to the west of the site do not provide optimum driving conditions. There are no sidewalks, streetlights or striping. However this does not mean that the street is unsafe. Many streets in the County are in this same condition. Most urban local access roads are not striped. However these potential conditions are obvious. Reasonably prudent drivers will observe the posted speed limit and if necessary, further reduce their speed to accommodate changing road conditions. Unfortunately not all drivers are prudent enough to observe posted speed limits and road conditions. However there is no evidence that the development proposed in this application will contribute a disproportionate share of imprudent drivers. If necessary the County can address issues of

speeding by installing speed bumps and other traffic calming measures on local streets and by providing increased enforcement of traffic laws on all streets in the area. The examiner has no authority to require that the applicant install additional traffic calming measures in this case. The Code provides sole authority to the County engineer to determine whether traffic calming measures are warranted as a condition of development approval. CCC 40.350.030.B(13).

Transportation Concurrency Finding 2 - Site access

Traffic conditions are usually expressed using a scale that quantifies the ability of a facility to meet the needs and expectations of the driver. This scale is graded from A to F and is referred to as level-of-service (LOS). A driver who experiences an LOS A condition would expect little delay. A driver who experiences an LOS E condition would expect significant delay, but the traffic facility would be just within its capacity to serve the needs of the driver. A driver who experiences an LOS F condition would expect significant delay with traffic demand exceeding the capacity of the facility with the result being growing queues of traffic.

Congestion, or concurrency, level of service (LOS) standards are not applicable to accesses that are not regionally significant; however, the LOS analysis provides information on the potential congestion and safety problems that may occur in the vicinity of the site.

The submitted traffic study shows that the proposed development will extend NE 111th Street into the site. The development will use the newly extended NE 111th Street and NE 130th Avenue as the primary ingress/egress location to access NE 114th Street. Further, once NE 132nd Avenue is extended south and becomes available for use, the proposed NE 112th Street will connect and become an additional ingress/egress location.

The traffic study indicates that study intersections will have an estimated LOS D or better through a three-year future build-out period. The study also shows that the LOS was evaluated at both the am and pm peak hour traffic conditions in existing and build-out scenarios. County Staff concurs with the traffic study findings.

Transportation Concurrency Finding 3 - Concurrency

The proposed development is required to meet the standards established in CCC 41.350.020.G for corridors and intersections of regional significance within 1 mile of the proposed development. Typically, the County's transportation model is used to determine what urban area developments are currently being reviewed, approved, or is under construction and in the vicinity of the proposed development. The traffic these developments generate is referred to as "*in-process traffic*" and will ultimately contribute to the same roadway facilities as the proposed development. This "*in-process traffic*" is used to evaluate and anticipate area growth and its impact on intersection and roadway operating levels with and without the proposed development, helping to determine if roadway mitigation necessary to reduce transportation impacts.

The “*in-process traffic*” information that can be obtained from the County’s transportation model is from developments that generate 10 vehicle trips or more (10, or more, single family lots) in the PM peak hour travel time. Developments, in an urban area, that have fewer than 10 vehicle trips (less than 10 single family lots) in the PM peak hour travel time do not explicitly get shown in the County’s model, but, are accounted for in a “*background growth rate*” (1% per year). This “*background growth rate*” is a conservative rate to capture the collective effect from all of the smaller developments in the immediate area and out of area traffic also.

Signalized Intersections

The applicant’s study shows the one-mile radius study area, which included regionally significant signalized intersections. The County’s model evaluated the operating levels, travel speeds and delay times for the remaining regionally significant signalized intersections. This analysis showed that individual movements during peak hour traffic conditions had approach delays that did not exceed the maximum 240 seconds of delay in the build-out year. Therefore, County Staff has determined that this development will comply with adopted Concurrency standards for signalized intersections.

Unsignalized Intersections

County Staff has performed an evaluation of the operating levels and delay standards of unsignalized intersections within the one-mile study area. The County’s model indicates that the intersections of regional significance in the development area will operate, during both the am and pm peak hours, with a LOS better than the minimum allowable LOS E for unsignalized intersections, with the exception of the NE 117th Avenue/NE 107th Street intersection.

The County’s Traffix TM model reports a LOS F upon build-out of the proposed development for the intersection NE 117th Avenue/NE 107th Street in its current configuration. County staff has consulted with the WSDOT regarding this intersection and staff from both agencies concur that a traffic signal and/or other intersection improvements are warranted at this location.

The applicant’s traffic study indicates that there are no trips assigned to the failing approach in the NE 117th Avenue/NE 107th Street intersection. Staff concurs with the applicant’s traffic study findings. Because this proposed development will not contribute to the degradation of the NE 107th Street/NE 117th Avenue intersection, additional analysis or mitigation at the intersection of NE 107th Street/NE 117th Avenue is not required.

Neighboring residents noted that there is no stop sign at the intersection of 130th Avenue and 111th Street. The County does not typically require stop signs at local street intersections within residential developments unless engineering warrants are met. Stop signs installed at intersections where warrants are not met can create a hazard, as some drivers become complacent, lulled by the lack of oncoming traffic, and start to ignore the stop sign.

Neighboring residents noted that the intersection of 119th Street and 132nd Avenue is not

Hearings Examiner Final Order

PLD2009-00051, SEP2009-00088, VAR2009-00014, WET2009-00066, BLA2009-00035 and EVR2009-00047

(Rachel’s Ranch Subdivision)

signalized. However this intersection will continue to operate at acceptable levels of service (LOS D or better) with the additional traffic generated by the proposed development. See Table 5 of the applicant's October 2, 2009 traffic impact analysis. Tab 14 of Exhibit 6. Therefore a signal is not warranted at this intersection.

The County has determined that this development will comply with adopted Concurrency Standards for unsignalized intersections with required mitigations as outlined above.

Concurrency corridors

Evaluation of the concurrency corridor operating levels and travel speeds represented in the County's model of the study corridors of regional significance, under County Jurisdiction, yielded operating levels and travel speeds with an acceptable level of service.

Summary

The County has determined that this development will comply with adopted Concurrency Standards for corridors, signalized and unsignalized intersections under County jurisdiction with required mitigations as outlined above.

The County incurs costs to analyze the proposed development's impacts; therefore, the applicant shall reimburse the County for costs incurred in running the concurrency model. **(See Condition A-5).**

SAFETY:

Where applicable, a traffic study shall address the following safety issues:

- traffic signal warrant analysis,
- turn lane warrant analysis,
- accident analysis, and
- any other issues associated with highway safety.

Mitigation for off-site safety deficiencies may only be a condition of approval on development in accordance with CCC 40.350.030.B(6) The code states that "nothing in this section shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Section 40.350.020 or a *significant* traffic or safety hazard *would be caused or materially aggravated* by the proposed development; provided, that the applicant may voluntarily agree to mitigate such direct impacts in accordance with the provisions of RCW 82.02.020."

Transportation Concurrency Finding 5 - Turn lane warrants

Turn lane warrants are evaluated at unsignalized intersections to determine if a separate left or right turn lane is needed on the uncontrolled roadway.

The submitted traffic study did not analyze turn lane warrants on NE 111th Street, because it is a street extension not the creation of an intersection.

Staff has further determined that turn lanes were not warranted at the intersection of NE 114th Street/NE 130th Avenue due to low turning volumes.

Transportation Concurrency Finding 6 - Historical accident situation

The applicant's traffic study analyzed the crash history as obtained from Clark County for a 5-year period, January 2004 – December 2008 and Washington State Department of Transportation (WSDOT) from January 2004 - May 2008. The crash history was obtained for the intersections of :

- NE 119th Street/NE 117th Avenue (SR 503);
- NE 119th Street/NE 132nd Avenue;
- NE 99th Street/NE 124th Avenue; and,
- NE 99th Street/NE 117th Avenue (SR 503).

The intersection crash rates, for all study intersections except NE 119th Street/NE 132nd Avenue, do not exceed thresholds that would warrant additional analysis.

County staff reviewed the crash history at the intersection of NE 119th Street/NE 132nd Avenue to determine if there is mitigation that could lessen the crash potential. This review helped staff determine whether the proposed development should be required to mitigate the potential for future crashes.

A review of the crash history at the intersection of NE 119th Street/NE 132nd Avenue shows that most of the crashes reported were angle type collisions.

It appears that these crashes are due to speeding or inattentive drivers. These types of crashes cannot be mitigated with intersection improvements. For example, at the intersection of NE 119th Street/NE 132nd Avenue, county staff review found twelve reported crashes between January 2004 and December 2008. Eight crashes were angle type accidents, where drivers have run stop signs and failed to yield to oncoming traffic. Other crash types included sideswipes, head on and obstacle in-road avoidance collisions.

Based on the nature of the crashes shown in the crash history, County staff believes this proposed development cannot provide mitigation for the increase in traffic generated to reduce the collision types at the intersection of NE 119th Street/NE 132nd Avenue. Therefore, no additional mitigation is required.

Transportation Concurrency Finding 7 - Sight distance

Sight distance issues are addressed in Transportation Finding 5; therefore, this issue will not be addressed here.

Conclusion (Transportation Concurrency):

Hearings Examiner Final Order

*PLD2009-00051, SEP2009-00088, VAR2009-00014, WET2009-00066, BLA2009-00035 and EVR2009-00047
(Rachel's Ranch Subdivision)*

The examiner finds that the proposed preliminary plan, subject to conditions identified above, meets the transportation concurrency requirements of the Clark County Code.

STORMWATER:

Stormwater Finding 1 - Applicability

The application is vested under the Stormwater and Erosion Control Ordinance (CCC 40.380), which applies to development activities that result in 2,000 square feet or more of new impervious area within the urban area; the platting of single-family residential subdivisions in an urban area; and all land disturbing activities not exempted in section 40.380.030.

The project will create more than 2,000 square feet of new impervious surface, involves platting of a single-family residential subdivision, and is a land disturbing activity not exempted in section 40.380.030. Therefore, this development shall comply with the Stormwater and Erosion Control Ordinance (CCC 40.380).

The erosion control ordinance is intended to minimize the potential for erosion and a plan is required for all projects meeting the applicability criteria listed in CCC 40.380.050. This project is subject to the erosion control ordinance.

Stormwater Finding 2 – Stormwater proposal

Flooding is clearly a problem in the area under existing conditions. See, e.g., Exhibits 10 and 29. However the applicant is not required to remedy all existing stormwater conveyance problems in the area. The applicant is only required to remedy problems created or exacerbated by the proposed development. See CCC 40.380.040.B(2)(b):

Existing off-site impacts that are not affected by the development activity or redevelopment do not require mitigation. However, in cases where the subject property was the cause of the existing impact, it is the responsibility of the applicant to either mitigate or provide technical information and analysis demonstrating that no increased impact will result.

As Mr. Golemo noted, flooding was a problem in this area before the Mt. View neighborhood was developed. The original plat for the Mt. View subdivision indicates areas of flooding on lots south of 111th Street and a plat note states “any improvements in easement area will be at owner’s risk.” The “easement area” referenced in the plat note roughly coincides with the areas of existing flooding. Exhibit 13.

The proposed development will increase the amount of impervious surface area on the site. Therefore it will reduce the area where water can infiltrate. Absent any other improvements, that would increase the volume of stormwater run-off discharged off-site and increase flooding problems on those downstream properties. However the applicant proposed to collect, treat and infiltrate or detain stormwater runoff from the impervious surfaces on the site. Infiltration of stormwater will reduce the volume of surface runoff entering the wetland. The applicant must release some runoff to the on-site wetland in order to maintain the existing wetland hydrology. However the applicant will release

treated stormwater from the detention facility at less than predevelopment rates, potentially reducing the rate of runoff leaving the site.

The applicant has proposed a StormFilter (Contech Stormwater Solutions) and infiltration for proposed phase 1. A swale and detention facility have been proposed for phase 2. Per the applicant, infiltration rates were tested to be at least 100 inches per hour. The applicant proposes to utilize a safety factor of 5 resulting in an infiltration rate of 20 inches per hour for the purpose of the design of the infiltration facilities. An emergency overflow has been proposed for the infiltration system that drains to the proposed detention pond. Individual lot infiltration systems are also proposed. The StormFilter, infiltration system, and detention system are proposed to be publicly owned and maintained. The applicant provided a downstream analysis.

Per the geotechnical engineering report, groundwater was not found within 13.5 feet of the ground surface in September of 2009 in the location of the proposed infiltration system. Staff asked the applicant to provide a better determination of the elevation of the seasonal high groundwater. The geotechnical engineering report states that well logs in the vicinity of the site indicate the static groundwater level is between 65 feet to 134 feet below the existing ground surface. In a letter to staff dated December 10, 2009, the applicant states that on the Mountain View plan and profile record "G249" dated March 5, 1975, there is a reference to an existing high water elevation of 265.3 feet. The applicant states the design assumes a conservative seasonal high water elevation of 266 feet and all detention and infiltration will occur above 266 feet.

It is unclear as to whether or not a closed depression exists within the vicinity of the southern area of the site. Stormwater may or may not drain past NE 124th Avenue to the west. The applicant shall verify whether or not a closed depression exists, and if one does, a closed depression analysis shall be performed during final engineering review. The applicant communicated to staff the willingness to perform the analysis if it is determined the analysis is required. *(See Condition A-7.a)*

Per CCC 40.380.040.C(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. The base of the infiltration facilities shall be at a minimum of three feet above the seasonal high groundwater or an impermeable soil layer per CCC 40.380.040.C(3)(c). *(See Condition A-7.b)*

During construction, the infiltration rates shall be verified in the field and corresponding laboratory testing shall also be performed. *(See Condition C-2)*

The preliminary stormwater report identifies a 100-year/24-hour storm precipitation depth as being 4.6 inches. The 10-year/24-hour storm event precipitation depth is 3.3 inches. In addition, the 2-year/24-hour storm event precipitation depth is identified as being 2.3 inches.

Stormwater Finding 3 – Stormwater variance (VAR2009-00014)

The stormwater ordinance requires stormwater facilities be placed within tracts outside of public right-of-way. The applicant has submitted a variance application for the allowance of locating an infiltration system in public right-of-way internal to the project. The preliminary stormwater plan proposes to locate the infiltration facility within the proposed right-of-way of NE 131st Avenue. The preliminary stormwater report indicates that all proposed infiltration systems were designed with the factor of safety of 5 for the lowest rate recommended by the geotechnical engineer; thus infiltration rate of 20 in/hr was used for the design. Also an emergency overflow has been proposed. Staff believes the applicant has addressed the critical elements for placing infiltration systems within the right-of-way.

A geotechnical fabric shall be included in the portion of the sub-base of NE 131st Avenue above the proposed infiltration system in order to prevent settling above the infiltration system. *(See Condition A-7.c)*

The examiner approves the stormwater variance subject to the associated condition.

Stormwater Finding 4 - Phasing

Each individual proposed phase shall be designed with sufficient stormwater management facilities and comply with CCC 40.380. The required stormwater improvements for each proposed phase will be reviewed by the final engineer. *(See Condition A-7.d)*

Conclusion (Stormwater):

The examiner concludes that the proposed preliminary stormwater plan, subject to the conditions above, is feasible. Therefore the requirements of the preliminary plan review criteria are satisfied.

FIRE PROTECTION:

Fire Protection Finding 1 – Fire marshal review

This application was reviewed by Tom Scott in the Fire Marshal's Office. Tom can be reached at (360) 397-2375 x4095 or 3323. Information can be faxed to Tom at (360) 759-6063. Where there are difficulties in meeting these conditions or if additional information is required, contact Tom in the Fire Marshal's office immediately.

Fire Protection Finding 2 – Building construction

Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process. *(See Condition G-3)*

Fire Protection Finding 3 – Fire flow

Fire flow in the amount of 1000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. Information from the water purveyor indicates that the required fire flow is not currently available at the site. Upgrades to the water main supplying the development shall be provided to ensure that the required fire flow is available. *(See Condition 10.a)*

Fire Protection Finding 4 – Fire hydrants

Fire hydrants are required for this application. The indicated number and spacing of the fire hydrants is adequate.

Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval contact the Vancouver Fire Department at 360-759-4418 to arrange for location approval. *(See Condition 10.b)*

Fire Protection Finding 5 - Access

The roadways and maneuvering areas as indicated in the application meet the requirements of the Clark County Road Standard.

Provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus.

Fire apparatus turnarounds are required and as indicated meet the requirements of the Road Standard.

Parallel parking is prohibited on streets that are less than twenty-four (24) feet wide. Streets that are less than twenty-four (24) feet wide shall be posted "NO PARKING". *(See Conditions A-10.c, d, & e)*

Conclusion (Fire Protection):

The examiner finds that the proposed preliminary plan, subject to conditions identified above, meets the fire protection requirements of the Clark County Code.

WATER & SEWER SERVICE:

Finding 1 - Providers

The site will be served by Clark Public Utilities and the Clark Regional wastewater sewer district. Letters from the above districts confirm that services are available near the site.

Water and sewer lines can be extended from various locations; both utilities can be accessed through public rights-of-way if other preferred routes cannot obtain the necessary easements.

Finding 2 – Review of existing on-site systems

The site has an existing well and septic system. The existing wells and/or septic systems are proposed to be abandoned. Submittal of an acceptable "Health Department Final Approval Letter" to the county is required at the time specified in the evaluation letter. *(See conditions A-9 and B-1.a & b).*

Conclusion (Water & Sewer Service):

The examiner finds that the proposed preliminary plan, subject to conditions identified above, meets the water and sewer service requirements of the Clark County Code.

IMPACT FEES:

Finding 1 - Impact Fees

The additional residential lots created by this plat will produce impacts on schools, parks, and traffic, and are subject to School (SIF), Park (PIF), and Traffic Impact Fees (TIF) in accordance with CCC 40.610.

- ☐ North Orchards sub-area with a TIF of \$5,539.60 per dwelling.
- ☐ Battle Ground School District, with a SIF of \$8,290 per dwelling
- ☐ Park District #5, with a PIF of \$1,799 per dwelling (\$1,359 for park acquisition / \$440 for park development).

Impact fees will be waived for the one (1) existing dwelling. The final plat shall designate to which lot the waiver shall apply. *(See Conditions D-5.f and E-1)*

D. CONCLUSION

Based on the above findings and discussion, the examiner concludes that PLD2009-00051, SEP2009-00088, VAR2009-00014, WET2009-00066, BLA2009-00035 and EVR2009-00047 (Rachel's Ranch Subdivision) should be approved, because it does or can comply with the applicable standards of the Clark County Code and the Revised Code of the State of Washington, subject to conditions of approval necessary to ensure the final plat and resulting development will comply with the Code.

E. DECISION

Based on the foregoing findings and except as conditioned below, the examiner hereby approves PLD2009-00051, SEP2009-00088, VAR2009-00014, WET2009-00066, BLA2009-00035 and EVR2009-00047 (Rachel's Ranch Subdivision) in general conformance with the applicant's revised preliminary plat (Exhibit 15 and the related plans, reports and proposal (Exhibits 5, 6, 11, 13 through 17, 20, 21, 22 and 28). The approval is granted subject to the requirements that the applicant, owner or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

Conditions of Approval

A Final Construction Plan Review for Land Division Review & Approval Authority: Development Engineering

Prior to construction, a Final Construction Plan shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

A-1 Final Wetland Permit approval shall be required, consistent with the following:

- a. The Final Wetland Mitigation Plan shall be revised to demonstrate that the wetland and wetland buffer mitigation standards in CCC 40.450.040 C and D will be met. (see Wetland Finding 6 for a discussion of how this condition can be met with on-site mitigation and minor alterations to lot lines). Significant changes to the plat to meet this condition may require post decision review.
- b. The Final Wetland Mitigation Plan shall clearly demonstrate that all stormwater facilities located within the wetland buffer meet the design standards in CCCC 40.450.040.C(4).

A-2 A Wetland Plan shall be provided, consistent with the following:

- a. The engineering construction plans shall show the correct wetland buffers for all existing wetlands.
- b. The engineering construction plans shall clearly demonstrate that all stormwater facilities located within the wetland buffer meet the design standards in CCCC 40.450.040.C(4).
- c. If retaining walls are proposed to minimize wetland impacts, the location and design of these walls shall be included in the engineering construction plans.

A-3 Final Construction Plan – The applicant shall submit and obtain County approval of a final construction plan in conformance to CCC 40.350 and the following conditions of approval:

- a. Archaeology: A note shall be placed on the face of the final construction plans as follows:
 "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

A-4 Final Transportation Plan/On-Site - The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350 and the following conditions of approval:

- a. The applicant shall propose half-width frontage improvements for NE 132nd Avenue, including 40 feet of right-of-way, 23 feet of paved with, curb, gutter, and 6-foot detached sidewalk unless the applicant can justify bonding the physical improvements through a road modification. Parking is prohibited along partial width roadways with the signs and pavement markings being the responsibility of the applicant.

- b. A post decision review, pursuant to CCC 40.520.060, may be required if a substantial change is made to the preliminary transportation plan.
- c. Per CCC 40.350.030 (B)(4)(b)(1)(b), corner lot driveways shall be a minimum separation of 50 feet from the intersecting property lines or where this is impractical, the driveway may be located 5 feet from the property line away from the intersection or as a joint use driveway at this property line.
- d. The applicant is responsible for addressing the requirements of the sight distance section of code, CCC 40.350.030.B(8), including at the intersection of NE 114th Street and NE 130th Avenue as all trips are proposed to take access to the intersection.
- e. The applicant is responsible for the design and construction of all necessary transportation improvements required for each individual phase including temporary turnarounds.
- f. Prior to final construction plan approval, the applicant shall record a legal agreement signed by the owner of Parcel #200329-000 granting the necessary rights of way and easements for construction the proposed offsite road improvements for the extension of NE 132nd Avenue and the temporary turnarounds.

A-5 Final Transportation Plan/Off Site (Concurrency) – The applicant shall reimburse the County for the cost of concurrency modeling incurred in determining the impact of the proposed development, in an amount not to exceed \$2,000. (*See Transportation Concurrency Finding 3*)

A-6 Transportation:

- a. Signing and Striping Plan: The applicant shall submit a signing and striping plan and a reimbursable work order, authorizing County Road Operations to perform any signing and pavement striping required within the County right-of-way. This plan and work order shall be approved by the Department of Public Works prior to final plat or final site plan approval.
- b. Traffic Control Plan: Prior to issuance of any building or grading permits for the development site, the applicant shall obtain written approval from Clark County Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

A-7 Final Stormwater Plan - The applicant shall submit and obtain County approval of a final stormwater plan designed in conformance to CCC 40.380 and the following conditions of approval:

- a. The applicant shall verify whether or not a closed depression exists, and if one does exist, a closed depression analysis shall be performed during final engineering review.
- b. Per CCC 40.380.040.C(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. The base of the infiltration facilities shall be at a minimum of three feet above the seasonal high groundwater or an impermeable soil layer per CCC 40.380.040.C(3)(c).
- c. A geotechnical fabric shall be included in the sub-base of a portion of NE 131st Avenue above the proposed infiltration system in order to prevent settling above the infiltration system.
- d. Each individual proposed phase shall be designed with sufficient stormwater management facilities in compliance with CCC 40.380.

A-8 Erosion Control Plan - The applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.380.

A-9 Health Department Review - Submittal of a "Health Department Project Evaluation Letter" is required as part of the Final Construction Plan Review or early grading application. If the Evaluation Letter specifies that certain actions are required, the Evaluation Letter will specify the timing of when those activities must be completed (e.g., prior to Final Construction Plan Review, construction, Provisional Acceptance, Final Plat Review, building permit issuance, or occupancy), and approved by the Health Department.

A-10 Fire Marshal Requirements:

- a. Fire Flow: Fire flow in the amount of 1000 gallons per minute supplied for 60 minutes duration is required for this application. A utility review from the water purveyor indicates that the required fire flow is not currently available at the site. Additions to water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. (*See Fire Protection Finding 3*)
- b. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval contact the Vancouver Fire Department at 360-759-4418 to arrange for location approval. (*See Fire Protection Finding 4*)
- c. Fire Apparatus Access: Fire apparatus access is required for this application. The roadways and maneuvering areas as indicated in the application shall meet the requirements of the Clark County Road Standard. The applicant shall

provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface capable of supporting the imposed loads of fire apparatus. *(See Fire Protection Finding 5)*

- d. Fire Apparatus Turnarounds: - Approved fire apparatus turnarounds are required for this project. The provisions for turning around fire apparatus comply with the Clark County Road Standard. *(See Fire Protection Finding 5)*
- e. Parallel parking is prohibited on streets that are less than twenty-four (24) feet wide. Streets that are less than twenty-four (24) feet wide shall be posted "NO PARKING". *(See Fire Protection Finding 5)*

A-11 Final Landscape Plan - The applicant shall submit and obtain county approval of final landscape plan consistent with the approved preliminary landscape plan for the NE 132nd right-of-way.

A-12 Excavation and Grading - Excavation / grading shall be performed in compliance with CCC Chapter 14.07.

B	Prior to Construction of Development Review & Approval Authority: Development Inspection
----------	---

Prior to construction, the following conditions shall be met:

- B-1 Pre-Construction Conference** - Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County; and,
 - a. Prior to construction, demarcation of existing septic and water well systems, and underground tanks shall be established. *(See Water and Sewer Finding 2)*
 - b. Prior to site construction, abandonment of septic systems, water wells and underground tanks shall be decommissioned in accordance with the procedures of the Clark County Health Department. *(See Water and Sewer Finding 2)*
 - c. Prior to site construction, structures slated for demolitions shall be demolished in accordance with the procedures of the Southwest Clean Air Agency and a Clark County demolition permit. *(See Land Use Finding 4)*
- B-2 Erosion Control** - Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.

- B-3 Erosion Control** - Erosion control facilities shall not be removed without County approval.

C	Provisional Acceptance of Development Review & Approval Authority: Development Inspection
----------	--

Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/land division plan and the following conditions of approval:

- C-1 Wetlands and Buffers** - Permanent physical demarcation of the boundaries in a manner approved by the Development Services Manager (i.e. fencing, hedgerows, berms etc.) and posting of approved signage on each lot or every 100 feet of the boundary, whichever is less.
- C-2 Stormwater:**
The installation of infiltration systems shall be observed and documented by a licensed engineer in the State of Washington proficient in geotechnical engineering. During the construction, the geotechnical engineer shall verify that the infiltration rates used in the final stormwater analysis are obtained at the exact locations and depths of the proposed stormwater infiltration facilities. The infiltration investigation shall include laboratory analysis based on AASHTO Specification M145. The timing of representative infiltration tests will be determined at the pre-construction conference. *(See Stormwater Finding 2)*

D	Final Plat Review & Recording Review & Approval Authority: Development Engineering
----------	---

Prior to final plat approval and recording, the following conditions shall be met:

- D-1** A boundary line adjustment shall be completed with Parcel 200152-000 to enable Lots 1 and 11 to meet a minimum width of 35 feet, and to resolve encroachments into Lots 14-17. Failure to complete the adjustments will require adjustments to the final plat. Depending on the magnitude of the adjustments, staff reserves the right to require a post decision review of the reconfigured lots. *(See Land Use Finding 1)*
- D-2 Private Road Maintenance Covenant** – A private road maintenance covenant shall be submitted to the responsible official for approval and recorded with the County Auditor. The covenant shall set out the terms and conditions of responsibility for maintenance, maintenance methods, standards, distribution of expenses, remedies for noncompliance with the terms of the agreement, right of use easements, and other considerations, as required under 40.350.030.C(4)(g).
- D-3 Verification of the Installation of Required Landscape**
Prior to approval of a final plat for Phase I, the applicant shall provide verification in accordance with Section 40.320.030.B that the required street trees have been installed in accordance with the approved landscape plan. In the event that NE

132nd Avenue is bonded with Phase I, the bond amount shall include the street trees.

- D-4 Abandonment of On-Site Water Wells and Sewage Systems** – The location of abandoned septic tanks and decommissioned wells shall be shown on the face of the final plat.
- D-5 Developer Covenant** – A “Developer Covenant to Clark County” shall be submitted for recording to include the following:
- a. Private Road Maintenance Covenant: A private road maintenance covenant shall be submitted to the responsible official for approval and recorded with the County Auditor. The covenant shall set out the terms and conditions of responsibility for maintenance, maintenance methods, standards, distribution of expenses, remedies for noncompliance with the terms of the agreement, right of use easements, and other considerations, as required under 40.350.030.C(4)(g).
 - b. Private Roads: "Clark County has no responsibility to improve or maintain the private roads contained within or private roads providing access to the property described in this development. Any private access street shall remain a private street, unless it is upgraded to meet applicable current road standards at the expense of the developer or abutting lot owners to include hard surface paving and is accepted by the county for public ownership and maintenance."
 - c. Critical Aquifer Recharge Areas: "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."
 - d. Erosion Control - "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."
 - e. Responsibility for Stormwater Facility Maintenance: For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. Final plats shall specify the party(s) responsible for long-term maintenance of stormwater facilities within the Developer Covenants to Clark County. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. If

the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.060.

- f. Impact Fees: "In accordance with CCC 40.610, except for one lot designated on the final plat as waived, the School, Park and Traffic Impact Fees for each dwelling in this subdivision are: \$ 8,290 (Battle Ground School District), \$ 1,799 (\$1,359 - Acquisition; \$440 - Development for Park District #5), and \$5,539.60 (North Orchards TIF subarea) respectively. The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated _____, and expiring on _____. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedule."

D-6 Utility and Annexation Covenant - The following covenants shall be submitted for recording:

- a. Covenant indicating that the owner or any subsequent owner of the property shall support annexation to a city.

D-7 Addressing - At the time of final plat, existing residence(s) that will remain may be subject to an address change. Addressing will be determined based on point of access.

D-8 Wetlands:

- a. The wetland and buffer boundaries shall be delineated on the face of the final plat
- b. A conservation covenant shall be submitted for recording with the County Auditor that runs with the land and requires that the wetlands and buffers remain in their natural state. (*See Wetland Finding ____*)

D-9 Plat Notes - The following notes shall be placed on the final plat:

- a. Mobile Homes: "Mobile homes are not permitted on any lots subject to the requirements of CCC 40.260.130."
- b. Archaeological: "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

- c. Wetland Covenants: "Clark County Wetland Protection Ordinance (Clark County Code Chapter 40.450) requires wetlands and wetland buffers to be maintained in a natural state. Refer to Conservation Covenant (Ref #___) recorded with the Clark County Auditor for limitations on the maintenance and use of the wetland and wetland buffer areas identified on the face of this plat."
- d. Sidewalks: "Prior to issuance of occupancy permits, sidewalks shall be constructed along all the respective lot frontages."
- e. Utilities: "An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior six (6) feet along the front boundary lines of all lots adjacent to public streets."
- f. Driveways: "No direct access is allowed onto NE 132nd Avenue."
- g. Driveways: "All residential driveway approaches entering public roads are required to comply with CCC 40.350."
- h. Privately Owned Stormwater Facilities: "The following party(s) is responsible for long-term maintenance of the privately owned stormwater facilities: _____."
- i. Temporary Turnaround: "The following party(s) is responsible for removal of the onsite temporary turnaround and construction of sidewalk in this location: _____."

E	Building Permits Review & Approval Authority: Customer Service
----------	---

Prior to issuance of a building permit, the following conditions shall be met:

- E-1 Impact Fees** - The applicant shall pay impact fees based on the number of dwelling units in the building, as follows:
 - a. \$8,290 per dwelling for School Impact Fees (Battle Ground School Dist.)
 - b. \$1,799 per dwelling for Park District #5 (\$1,359 - Acquisition; \$440 - Development);
 - c. \$5,539.60 per dwelling for Traffic Impact Fees (North Orchards TIF Sub-area)

If the building permit application is made more than three years following the date of preliminary land division plan approval, the impact fees shall be recalculated according to the then-current rate. *(See Impact Fee Finding 1)*

F	Occupancy Permits Review & Approval Authority: Building
----------	--

Prior to issuance of an occupancy permit, the following conditions shall be met:

F-1 None

G	Development Review Timelines & Advisory Information Review & Approval Authority: None - Advisory to Applicant
----------	--

G-1 Land Division - Within 5 years of preliminary plan approval, a Fully Complete application for Final Plat review shall be submitted.

G-2 Department of Ecology Permit for Construction Stormwater - A permit from the Department of Ecology (DOE) is required If:

- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**
- There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one acre threshold. This applies even if the applicant is responsible for only a small portion [less than one acre] of the larger project planned over time. **The applicant shall Contact the DOE for further information.**

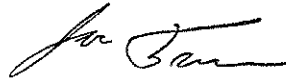
G-3 Building and Fire Safety

Building and Fire, Life, and Safety requirements must be addressed through specific approvals and permits. This decision may reference general and specific items related to structures and fire, life, and safety conditions, but they are only for reference in regards to land use conditions. It is the responsibility of the owner, agent, tenant, or applicant to insure that Building Safety and Fire Marshal requirements are in compliance or brought into compliance. Land use decisions do not waive any building or fire code requirements.

H	Post Development Requirements Review & Approval Authority: As specified below
----------	--

H-1 None

DATED this 18th day of February 2010.

A handwritten signature in black ink, appearing to read "Joe Turner", written above a horizontal line.

Joe Turner, AICP, Hearings Examiner



HEARING EXAMINER EXHIBITS

Project Name: **RACHEL'S RANCH**

Case Number: **PLD2009-00051; SEP2009-00088; VAR2009-00014;
WET2009-00066; BLA2009-00035; EVR2009-00047**

Hearing Date: **January 14, 2010**

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	10/8/09	Applicant: Sturtevant, Golemo & Associates	Preliminary Plat, Existing Conditions Plan, Preliminary Street, Stormwater & Erosion Control Plan, Preliminary Landscape Plan, Boundary Line Adjustment Plan,
6	10/8/09	Applicant: Sturtevant, Golemo & Associates	Application for Subdivision and SEPA with Submittal Checklist, Pre-App Conference Report, GIS Packet, Narrative, Legal Lot Information, Preliminary Plats Abutting the Site, Preliminary Boundary Survey, Boundary Line Adjustment Application, Geotechnical Report, Preliminary Stormwater Report, Engineer's Statement, Traffic Study, Site Distance Certification, Circulation Plan, SEPA Checklist, Utility Reviews, Health Dept Review, Archaeological Pre-determination and DAHP Letter of Response, Wetland Pre-determination, Wetland Permit-Type II, Wetland and Buffer Mitigation Plan, School Bus Letter, Type II Administrative Variance for Storm Infiltration in Right-of-way, Road Modification Application and Narrative, Reduced Plan, Preliminary Plans with BLA Plan
7	10/29/09	CC Development Services	Development Review Fully Complete Determination
8	11/10/09	CC Development Services	Affidavit of Mailing Public Notice

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
9	11/10/09	CC Development Services	Notice of Type III Review Application, Optional SEPA Determination of Non-Significance and Public Hearing
10 includes 10a-i	11/22/09	Howard Foreman	Comments and photos regarding flooding at nearby properties
11	11/25/09	Applicant: Sturtevant, Golemo & Associates	Response to Foreman comments regarding flooding at nearby properties
12	11/25/09	Department of Ecology	SEPA comments
13	12/09/09	Applicant: Sturtevant, Golemo & Associates	Additional stormwater information
14	12/11/09	Applicant: Sturtevant, Golemo & Associates	Revised plat with new phasing lines
15	12/21/09	Applicant: Sturtevant, Golemo & Associates	Re-revised plat (different from Exhibit 14) . Replaces Sheet 1 of original Exhibit 5 plans.
16	12/21/09	Applicant: Sturtevant, Golemo & Associates	Revised stormwater plan and report. Stormwater plan replaces Sheet 3 of original Exhibit 5 plans.
17	12/10/09	Applicant: Sturtevant, Golemo & Associates	Request to bond 132 nd Avenue improvements with Phase I
18	12/22/09	CC Development Services	Wetland Determination
19	12/23/09	CC Development Services	Memo regarding wetland mitigation balance
20	12/18/09	Applicant: Sturtevant, Golemo & Associates	Email summarizing stormwater issues addressed in revised stormwater report, Ex. 16
21	12/23/09	Applicant: Sturtevant, Golemo & Associates	Unsigned agreement letter for offsite turnarounds
22	12/23/09	Applicant: Sturtevant, Golemo & Associates	Email Re: Road Agreement

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
23	12/30/09	CC Development Services	Affidavit of Posting Public Notice
24	12/30/09	CC Development Services – Jan Bazala, Project Planner	Type III Development & Environmental Review, Staff Report & Recommendation
25	1/5/2010	CC Development Services – Jan Bazala, Project Planner	Memo to Joe Turner-Corrections to the staff report
26	1/14/10	CC Development Services – Jan Bazala, Project Planner	Second memo to Joe Turner-additional condition regarding easements
27	1/14/10	CC Development Services	Power Point Presentation Pictures
28	1/14/10	Applicant	Signed road easement agreement
29	1/14/10	Mike Cozens	Additional pictures of flooding submitted at hearing
30	12/16/09	CC Development Services	Legal Notice of Public Hearing
31	12/15/09	Applicant: Sturtevant, Golemo & Associates	Affidavit of Posting Land Use Sign

Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division
1300 Franklin Street
Vancouver, WA 98666-9810